

Virginia Administrative Code

16VAC20-20-20. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Apprentice" means a person as defined by §40.1-120 of the Code of Virginia.

Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

"Apprenticeable occupation" means an occupation as defined by §40.1-120 of the Code of Virginia.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in 16VAC20-20-50.

"Apprenticeship Council" or "council" means the Virginia Apprenticeship Council established pursuant to §40.1-117 of the Code of Virginia.

"Apprenticeship program" means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this chapter.

"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry.

"Job Site": means

Construction: New/Renovation the approved building permit, Plan of Development, contract number, or contractual agreement.

Non-Construction: The physical area within the walls that services are offered. The location that is identified on the license issued by the licensing board and /or the political locality.

"Sponsor" means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

~~"Supervisor of apprentices"~~ "Coordinator of Apprenticeship" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

"Supervision of Apprentices" means any supervisor/foreman/journeyworker//highly skilled mentor may be counted for direct supervision of an apprentice as long as they are of the same trade or occupation as the apprentice.

“Work Processes” means a defined industry specific skill set that must be mastered in the work environment during the term of the apprenticeship.”

16VAC20-20-40. Standards for apprenticeship programs.

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.
2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of which will be provided for the sponsor who will make it available to the apprentice for review, upon request.
3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.
4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.
5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in 16VAC20-20-50.
6. A term of apprenticeship of not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.
7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either

party. Full credit will be given for the initial probationary period toward completion of the apprenticeship program.

8. The designation of the ~~supervisor of apprentices~~ coordinator of apprenticeship whose duties shall include.

a. Maintaining adequate records of the progress of each apprentice;

b. Assurance of qualified training personnel and adequate supervision on the job;

c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;

d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;

e. Making arrangements with the local ~~vocational education authorities~~ Related Instruction Provider for the required related instruction;

f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. Provisions concerning the ratio of apprentices to journeymen.

a. The minimum numeric ratio of apprentices to journeymen shall be 1:1 except as noted in subdivision B 14 b of this section. Individual program sponsors shall propose, as part of their apprenticeship standards, a ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment, applicable provisions in collective bargaining agreements, and applicable requirements of recognized licensing boards or authorities.

The Department of Labor and Industry, Division of ~~Registered Apprenticeship Training~~, will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

- (1) Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;
- (2) The specific nature of the industry and occupation involved;
- (3) Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, ex-offenders, the handicapped, and veterans;
- (4) Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the division, the sponsor may appeal, in writing, the decision to the commissioner. If the commissioner upholds the decision of the ~~Apprenticeship Training~~ Division of Registered Apprenticeship, the sponsor may appeal to the State Apprenticeship Council. The decision of the council shall be final.

b. Apprenticeship ratio on Davis-Bacon worksites. Effective July 1, 1993, the minimum numeric ratio of apprentices to journeymen for individual program sponsors and for individual contractors signatory to joint and non joint apprenticeship programs performing work under the Davis-Bacon and related federal prevailing wage laws shall be worksite-specific and shall be as follows:

One apprentice to the first ~~journeyman~~ journeyworker; (1:1)

Two apprentices to the first two ~~journeymen~~ journeyworkers; (2:2)

Two apprentices to the first three ~~journeymen~~ journeyworkers; 2:3)

Two apprentices to the first four ~~journeymen~~ journeyworkers; 2:4)

Two apprentices to the first five journeyworkers; (2:5)

Three apprentices to the first six journeyworkers; and (3:6)

One additional apprentice for each two ~~journeymen~~ journeyworkers thereafter.

(3:7; 4:8; 5:10; 5:11; 6:12; etc)

NOTE: The Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

The ratio for service trucks on Davis-Bacon worksites shall be one apprentice to one journeyman.

Bids submitted for Davis-Bacon work on or after July 1, 1993, must observe these minimum ratio requirements.

These ratio provisions shall apply until either the Congress of the United States of the U.S. Department of Labor mandate different or uniform ratios for Davis-Bacon work.

c. Other requirements related to Davis-Bacon worksites. Sponsors shall notify the Virginia Apprenticeship Council within 30 days of receipt of a citation alleging a violation of the Davis-Bacon Act affecting an apprentice. The notice must be in a form specified by the policies of the Apprenticeship Council. Failure to report citations shall be an omission for which council may consider requiring a remedial action plan or deregistration of the sponsor's program.

The Apprenticeship Council may deregister sponsors who receive final orders of the U.S. Department of Labor or the courts confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

The effectiveness of the numeric ratio approved for individual program sponsors will be examined every two years during the program sponsor evaluation process.

15. A procedure for lay-off, suspension, cancellation and reinstatement of apprentices. Apprentices may be laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the

Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with this chapter.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's responsibilities as an employee.

16VAC20-20-60. Deregistration procedure.

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

A. Voluntary deregistration.

The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.

2. That within 15 days of the date of the acknowledgement, the sponsor shall:

a. Notify all apprentices of such cancellation and the effective date;

b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and

c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

B. Involuntary deregistration.

Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with this chapter, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Council will notify the sponsor in writing of deregistration for one year after receiving substantial evidence in the record of either:

a. Exposing an apprentice to imminent danger in violation of state occupational safety and health standards;

b. Failure to provide supervision that is adequate for the period of training and the type of work being performed, sufficient to achieve the level of skill training of the trade, craft, or occupation and sufficient to reasonably protect the apprentice from serious occupational injury or illness; or

c. Failure to train an apprentice in accordance with approved apprenticeship program standards and knowingly or fraudulently certifying completion of training.

In lieu of deregistration, council may impose on the program sponsor a remedial action plan designed to bring the program sponsor into compliance with this chapter.

In cases where an employer or employers who are signatory to a joint or non joint apprenticeship agreement act in such a manner that the program is not conducted, operated, or administered in accordance with this chapter, council may impose on the joint or non joint apprenticeship program a remedial action plan designed to bring the individual member employer(s) into compliance with this chapter.

Prior to any vote by council to deregister an apprenticeship program, or to impose a formal remedial action plan, the program sponsor shall be:

a. Notified by registered mail that council intends to take such action, with the alleged infraction(s) indicated; and

b. Afforded the opportunity to present information to council which bears on the decision to deregister or impose a remedial action plan, either in writing or by personal appearance, within 30 days of receipt of notification by council.

The program sponsor shall be informed in writing of council's decision regarding deregistration or remedial action.

2. Implementation of involuntary deregistration. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program.

In cases where apprentices choose to change employers, because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

16VAC20-20-110. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the ~~trade~~ occupation, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.